IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 197 of 1992

State of Maharashtra .. Appellant

versus

Ambaji Narsappa Neeli & Anr. .. Respondent

...

Mr.D.P. Adsule, APP for the State.

Mr.A.K. Suryavanshi for the respondent.

CORAM : V.M. KANADE, J

DATED : 13th December 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State and the learned counsel appearing on behalf of the respondent.

2. The State is challenging the judgement and order of the JMFC, Solapur in RCC no.5 of 1989. By the said judgement and order, the learned Magistrate acquitted the accused of the offence punishable under the Prevention of Food and Adulteration Act.

3. The allegation against the respondent was that he was selling milk which contained fat levels above the level prescribed for skimmed milk. The learned APP has taken me through the judgement and order of the trial Court as also the evidence adduced by the prosecution. From the evidence of PW no.1, it can be seen that he has stated that he does not remember whether the sample which was taken was kept for sale by the accused as admittedly, the accused was staying behind the milk dairy. Further, the prosecution was not in a position to explain why there was a delay of more than six months in filing the complaint. From the evidence on record, it can be seen that the sample was not given to the accused as required u/s.13(2) of the Prevention of Food Adulteration Act though the accused had applied on 23rd April 1982. There is thus a clear violation of section 13(2) of the Prevention of Food Adulteration Act.

4. The trial Court in my view has given a reasoned order and has appreciated the evidence on record in its proper perspective. There is no reason to interfere with the said order. Appeal is accordingly dismissed.

V.M. KANADE, J